

THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NO: 5:04-CV-171

FILED
STATESVILLE, N.C.

SEP 2 2005

U.S. DISTRICT COURT
W. DIST. OF NC

KENNETH BARTON and)
SHARON BARTON,)
)
Plaintiffs,)
)
v.)
)
VICKI INGLEDUE, M.D., MARK)
SCOTT, P.A. and ASHE)
MEMORIAL HOSPITAL,)
)
Defendants.)
_____)

MEMORANDUM AND ORDER COMPELLING DISCOVERY

This matter is before the Court on the defendant denominated in the Complaint as "Vicki Ingledue, M.D."s "Motion to Compel Plaintiffs to Make Discovery", which was filed on July 1, 2005. No Response has been filed to this Motion, and the time for filing a Response has expired. Having considered the Motion, the record, and the applicable authority, the undersigned will grant Dr. Ingledue's "Motion to Compel Plaintiffs to Make Discovery", as discussed below:

FACTUAL AND PROCEDURAL BACKGROUND

On April 14, 2005, the following discovery was served on the Plaintiffs:

- (a) First Set of Interrogatories of the Defendant, Vicki Ingledue, M.D., to the Plaintiff, Kenneth Barton;
- (b) First Request for Production of Documents of Defendant, Vicki Ingledue, M.D., to the Plaintiff, Kenneth Barton;
- (c) First Set of Interrogatories of Defendant, Vicki Ingledue, M.D., to the Plaintiff, Sharon Barton;
- (d) First Request for Production of Documents of Defendant, Vicki Ingledue, M.D., to the Plaintiff, Sharon Barton.

Counsel for Dr. Ingledue took the following actions in a good faith effort to secure the Plaintiffs' responses to the above-referenced discovery, pursuant to Rule 37(a)(2)(B) of the Federal Rules of Civil Procedure:

(a) In a letter dated May 24, 2005, counsel for Dr. Ingledue notified counsel for the Plaintiffs that the time for the Plaintiffs to respond to the above-referenced discovery had expired. That letter notified counsel for the Plaintiffs that counsel for Dr. Ingledue would be forced to file a Motion to Compel if the Plaintiffs' responses were not received within ten (10) days of May 24, 2005.

(b) On June 2, 2005, counsel for Dr. Ingledue spoke with representatives in the office of the counsel for the Plaintiffs via telephone informing them of the outstanding discovery and referencing the May 24, 2005 letter. Counsel for Dr. Ingledue was informed that all responses would be forthcoming within the following week.

(c) On June 16, 2005, counsel for Dr. Ingledue again spoke with representatives in the office of counsel for the Plaintiffs via telephone, and was informed that all responses would be forwarded by the end of the following week.

As of the date of this Order, the Plaintiffs' responses to the above-referenced discovery had not been received by counsel for Dr. Ingledue.

NOW THEREFORE, IT IS ORDERED:


1. Dr. Ingledue's "Motion to Compel Plaintiffs to Make Discovery" is **GRANTED**.
2. The Plaintiffs will be ordered to produce responses to the following discovery to counsel for Dr. Ingledue within fourteen (14) days of this Order:

(a) First Set of Interrogatories of the Defendant, Vicki Ingledue, M.D., to the Plaintiff, Kenneth Barton;

- (b) First Request for Production of Documents of Defendant, Vicki Ingledue, M.D., to the Plaintiff, Kenneth Barton;
- (c) First Set of Interrogatories of Defendant, Vicki Ingledue, M.D., to the Plaintiff, Sharon Barton;
- (d) First Request for Production of Documents of Defendant, Vicki Ingledue, M.D., to the Plaintiff, Sharon Barton.

3. The Clerk is directed to send copies of this Memorandum and Order to counsel for the parties.

SO ORDERED, ADJUDGED AND DECREED.



Carl Horn, III
United States Magistrate Judge